

TBOTE Adopted Amendments – Effective March 1, 2022

Excerpted Information from the Notices of Adoption in the February 18, 2022, Issue of the *Texas Register*

CHAPTER 367. CONTINUING EDUCATION

40 TAC §§367.1 - 367.3

The Texas Board of Occupational Therapy Examiners adopts amendments to 40 Texas Administrative Code §367.1, Continuing Education; §367.2, Categories of Education; and §367.3, Continuing Education Audit. The amendments are adopted to revise current continuing education requirements and add activities eligible for continuing education credit. Section 367.1, Continuing Education, and §367.2, Categories of Education, were adopted without changes to the proposed text as published in the December 3, 2021, issue of the *Texas Register* (46 TexReg 8228) and will not be republished. Section 367.3, Continuing Education Audit, was adopted with changes to the proposed text as published in the December 3, 2021, issue of the *Texas Register* (46 TexReg 8228) and will be republished.

The change upon adoption to §367.3, Continuing Education Audit, will replace in §367.3(e) the phrase "the name and signature of the authorized signer or the official seal, letterhead, or logo of the authorized signer if an area designated for a signature is not included" with "the name of the authorized signer and either the signature of the authorized signer or the official seal, letterhead, or logo of the authorized signer if an area designated for a signature is not included." The change will clarify that if an area designated for a signature is not included on official documentation of a CE activity, the official seal, letterhead, or logo of the authorized signer may be included.

The amendments to §367.2, Categories of Education, revise current continuing education requirements and include cleanups and clarifications. The revisions include the substitution of the phrase "Creation of a new" with "Development of a" in an item concerning the development of a formal academic course or courses from an occupational therapy program. Such a change will allow licensees to count the development of a course or courses, which includes the creation of a new course or courses, for continuing education credit. The amendments add that the required documentation for certain categories of continuing education, such as the development of a formal academic course from an occupational therapy program or the development of publications, includes an attestation by the licensee of the dates and duration of the corresponding activities completed. This documentation will ensure that licensees attest to the activities they have completed for credit for such categories. The revisions also include the replacement of an item concerning the development of practice-related or instructional materials using alternative media by an item concerning the development of practice-related or instructional software.

The changes to the section also include, with regard to the maximum credit available for certain activities and/or categories, substituting a phrase such as "maximum" with "up to a maximum of"; such amendments will not change the amount of credit available for the activities and/or categories, but will, instead, make related language more uniform throughout the chapter.

The amendments to §367.2 add additional categories of continuing education and activities eligible for continuing education. For example, the amendments add that licensees may count the development of a professional or community/service presentation for continuing education credit.

The amendments include changes that would allow licensees to count an independent study for continuing education. Due to the change, the amendments also include the removal of the phrase "Reading journals" from a provision in §367.1, Continuing Education, concerning unacceptable activities not eligible for continuing education. Continuing education activities completed by the licensee for license renewal shall be acceptable if falling under one or more of the categories of continuing education activities included in §367.2, Categories of Education, and meeting further requirements of Chapter 367, Continuing Education. The phrase "Reading journals" has been removed, however, to reduce possible confusion concerning the new independent study category and the activities that may be counted for such, which may include the reading of journals, provided such meets other requirements of that category.

Amendments to §367.3, Continuing Education Audit, revise continuing education documentation to clarify and expand the items that may be included for such. A change to the section, with regard to items that may serve as continuing education documentation, includes striking "an official transcript" and replacing such with "transcripts." Additional changes include the information that must be on continuing education documentation. The section currently includes that documentation must include the signature of the authorized signer. The amendments add that if an area designated for the signature of the authorized signer is not included, the official seal, letterhead, or logo of the authorized signer may be included, instead.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Occupations Code §454.102, Rules, which authorizes the Board to adopt rules to carry out its duties under Chapter 454, and adopted under Texas Occupations Code §454.254, Mandatory Continuing Education, which authorizes the Board to assess the continuing education needs of license holders, establish a minimum number of hours of continuing education required to renew a license, and develop a process to evaluate and approve continuing education courses.

§367.3. Continuing Education Audit.

- (a) The Board shall select for audit a random sample of licensees. The audit will cover a period for which the licensee has already completed the continuing education requirement.
- (b) Licensees randomly selected for the audit must provide to TBOTE appropriate documentation within 30 days of notification.
- (c) The licensee is solely responsible for keeping accurate documentation of all continuing education requirements. Continuing education documentation must be maintained for two years from the date of the last renewal for auditing purposes.
- (d) Continuing education documentation includes, but is not limited to: transcripts, AOTA self-study completion certificates, copies of official sign-in or attendance sheets, course certificates of attendance, certificates of completion, and letters of verification.
- (e) Documentation must identify the licensee by name, and must include the date and title of the course; the name of the authorized signer and either the signature of the authorized signer or the official seal, letterhead, or logo of the authorized signer if an area designated for a signature is not included; and the number of hours or contact hours awarded for the course. When continuing education units (CEUs), professional development units (PDUs), or other units or credits are listed on the documentation, such must be accompanied by documentation from the continuing education provider noting the equivalence of the units or credits in terms of hours or contact hours.
- (f) Knowingly providing false information or failure to respond during the audit process or the renewal process is grounds for disciplinary action.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

CHAPTER 370. LICENSE RENEWAL

40 TAC §370.4

The Texas Board of Occupational Therapy Examiners adopts new rule 40 Texas Administrative Code §370.4, concerning Administrative Suspension and Refusal to Renew a License. The new rule is adopted to add to the Board rules language regarding the delegation of Board authority to certain staff to administratively suspend or refuse to renew a license pursuant to Texas Occupations Code §454.255. The rule is adopted without changes to the proposed text as published in the December 3, 2021, issue of the *Texas Register* (46 TexReg 8232). The rule will not be republished.

The Occupational Therapy Practice Act, Texas Occupations Code §454.255(a), Criminal History Record information for License Renewal, provides that "An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 454.217." Section 454.255(b) further specifies that "The board may administratively suspend or refuse to renew the license of a person who does not comply with the requirement of Subsection (a)."

Rule §370.4 will specify that the Executive Director, the Executive Director's designee, or the Director of Enforcement may administratively suspend or refuse to renew the license of a person who does not comply with the requirements of the Occupational Therapy Practice Act §454.217 (relating to Criminal History Record Information for License Issuance) and §454.255 (relating to Criminal History Record Information Requirement for License Renewal).

No comments were received regarding adoption of the rule.

The new rule is adopted under Texas Occupations Code §454.102, Rules, which authorizes the Board to adopt rules to carry out its duties in administering Chapter 454. The rule is also adopted under Texas Occupations Code §454.105, Employees; Division of Responsibilities, which authorizes the Board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the director and staff of the executive council. The new rule implements Texas Occupations Code §454.255, Criminal History Record information for License Renewal, which allows the board to administratively suspend or refuse to renew the license of a person who does not comply with the requirement of subsection (a) of the section.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.